CARRIERS — DISCRIMINATION AND OVERCHARGE — FREIGHT RATES QUOTED BY MISTAKE. — A state law provided that no railroad should make discriminating rates. The defendant, by mistake, quoted to the plaintiff a rate less than that regularly charged for like services. The plaintiff shipped the goods, but the defendant, discovering the mistake before delivery, exacted the full rate. The plaintiff brought an action for breach of the contract. *Held*, that the plaintiff cannot recover. *Haurigan* v. *Chicago and Northwestern R. R. Co.*, 117 N. W. 100 (Neb.).

Statutes prohibiting discrimination by common carriers are being very generally enacted, and the court in the principal case affirms the construction generally given to them. *Savannah, etc., R. Co.* v. *Bundich*, 94 Ga. 775; *Texas, etc., R. Co.* v. *Mugg*, 202 U. S. 242. The case in fact overrules a former decision, which was the only authority for the view that the contract was not void, as being illegal, if the railroad was acting under a mistaken belief in quoting a discriminating rate. *Mo. P. Ry. Co. v. Crowell, etc., Co.*, 51 Neb. 293. In the application of such statutes the intent of the contracting parties is immaterial. This is manifestly hard on the shippers, who may be induced to make shipments which they would not otherwise have made; but any other construction would defeat the purpose of the statute.

CONSTITUTIONAL LAW — ENFORCEMENT OF JUDGMENTS — JUDGMENT OF SISTER STATE ON ILLEGAL CONTRACT. — The defendant was associated with the plaintiff in certain transactions in cotton futures in Mississippi, which were illegal by the laws of that state. A controversy as to defendant's indebtedness under these transactions was submitted to arbitration and the award was given against the defendant. The defendant being temporarily in Missouri, the plaintiff brought an action there against him on the award, and obtained judgment. This judgment he sought to enforce in Mississippi. *Held*, that Mississippi must enforce the judgment. *Fauntleroy* v. *Lum*, 210 U. S. 230. See NOTES, p. 51.

CORPORATIONS — INSOLVENCY OF CORPORATION — RECEIVER'S CAPACITY IN SUIT AGAINST STOCKHOLDER. — A receiver of an insolvent corporation sued on an unpaid stock subscription note. In answer to the defendant's plea that the subscription was obtained by the fraud of the corporation, the receiver replied that certain creditors became such on the faith of the defendant's subscription. *Held*, that there can be no recovery. *Marion Trust Co.* v. *Blish*, 84 N. E. 814 (Ind., Sup. Ct.).

A receiver of a corporation, while representing the interests of both stockholders and creditors, takes his title under and through the corporation. For the purposes of litigation he stands in the shoes of the corporation. *Curtis* v. *Leavitt*, 15 N. Y. 1. Hence, though it is generally settled that a receiver may sue to recover unpaid stock subscriptions, the fraud of the corporation should rightly be a *prima facie* defence. *Gainey* v. *Gilson*, 149 Ind. 58. The one exception to the general doctrine that the receiver stands in no stronger position than the corporation, is that when the creditors have been defrauded, as in the misapplication or fraudulent disposition of corporate property, the receiver succeeds to their rights. *Alexander* v. *Relfe*, 74 Mo. 495. See *Curtis* v. *Leavitt*, *supra*. Even in such suits he must represent the rights, not of a few, but of the entire body of creditors. *American Trust, etc., Bank* v. *McGettigan*, 152 Ind. 582. Hence in the present case, even assuming that the specified defrauded creditors had rights against the defendant on the ground of estoppel, the receiver does not represent such special equities. See *Audenried* v. *Betteley*, 87 Mass. 382. The decision, therefore, seems correct.

CORPORATIONS — PROMOTERS — DISCLOSURE OF INTEREST TO DUMMY DIRECTORS. — The defendant and others, owners of certain parcels of property, formed a corporation, intending to sell to it at a profit in cash or shares, and offer stock for public subscription. When only forty shares had been issued, which were held by the defendant's dummies, the contract to buy the property was entered into by the corporation with the assent of all the shareholders. Two

months later one hundred and thirty thousand shares were issued to the vendors, and twenty thousand to outside subscribers. The corporation sued to rescind the sale of the defendant's parcel, or to recover his profits. *Held*, that the corporation, being bound by the assent originally given, has no remedy. *Old Dominion, etc., Co.* v. *Lewisohn*, 210 U. S. 206. See NOTES, p. 48.

CRIMINAL LAW — FORMER JEOPARDY — CONVICTION BY COURT MARTIAL AS BAR TO CRIMINAL PROSECUTION. — To an indictment for grand larceny the defendant pleaded former jeopardy. It appeared that he had been a member of the New York National Guard and had been tried by court martial on charges setting forth the same acts for which he was indicted. He had been found guilty and dismissed from the service. *Held*, that the plea is no bar to the prosecution. *People* v. *Wendel*, 37 N. Y. L. J. 797 (N. Y., App. Div., May, 1908).

An acquittal by a United States Army court martial will not bar an indictment in a state court; for the same act may constitute two offenses, — one against the United States, the other against the state. *State* v. *Rankin*, 4 Coldw. (Tenn.) 145. But a soldier acquitted of a charge of homicide by such a court martial cannot later be tried for the same act by a United States civil court. *Grafton* v. *U. S.*, 206 U. S. 333. There, however, the act was an offense against the United States alone, and, further, that court martial has jurisdiction and power to punish concurrent with the civil courts. *Ex parte Mason*, 105 U. S. 696. Trial by such a court martial may be said quite reasonably to constitute former jeopardy. But a New York court martial cannot inflict any punishment more serious than dismissal from the service and the imposition of a small fine. *N. Y. Military Code*, § 95. The defendant in the present case, then, had been formerly convicted of a breach of military discipline. But his acts were also a crime against the state, of which the state court martial had no jurisdiction. Clearly, therefore, he was never in jeopardy for it.

DAMAGES — CONSEQUENTIAL DAMAGES — DEVIATION OF ROUTE BY CARRIER. — The defendant railroad shipped the plaintiff's goods by a route different from that agreed upon, so that the plaintiff lost the benefit of a contract of sale, which provided that the sale could be avoided by the buyer if the goods arrived by other than a specified route. *Held*, that the plaintiff cannot recover for such loss. *St. Louis Southwestern Ry. Co.* v. *La. and Texas Lumber Co.*, 109 S. W. 1143 (Tex., Ct. Civ. App.).

When an action is brought upon the contract of carriage, the carrier's liability is limited to such damages as might reasonably be considered as arising from its breach, or such as might reasonably be supposed to have been in the contemplation of the parties when they made the contract. *Horne* v. *Midland Ry. Co.*, L. R. 8 C. P. 131. Under this rule the decision in the principal case is clearly correct if the action be considered as brought upon the contract. But the deviation might be treated as a conversion. *Phillips* v. *Brigham*, 26 Ga. 617. And in tort the damages which may be recovered are those which are the natural and proximate result of the unlawful act, even though not contemplated. *Brown* v. *Chicago, etc., Ry. Co.*, 54 Wis. 342. But by the great weight of authority the loss of a contract, though resulting from the tort, is regarded as too remote a consequence to support a recovery of damages. *Seymour* v. *Ives*, 46 Conn. 109. Thus the result reached in the present case is sound, irrespective of the form of the action.

DECEIT — DAMAGES — MISREPRESENTATION OF TERMS OF INSURANCE. — The defendant's agent fraudulently represented to the plaintiff that his life insurance policies provided for insurance for a certain term and also for subsequent repayment of the premiums with interest. In fact the policies provided for no substantial benefits except upon death. The plaintiff accepted the policies and paid the premiums until the expiration of the term. He then brought an action of deceit against the defendant. *Held*, that the plaintiff may recover the amount of the premiums paid with interest. *Sykes* v. *Life Ins. Co. of Va.*, 61 S. E. 610 (N. C.).

The court reasoned that since the plaintiff might have obtained reformation